

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Hosein Nematbakhsh dba ABC Shuttle (PSC 16112) to expand its Certificate of Public Convenience and Necessity to include certain points in the County of San Bernardino, County of Riverside, portions of the County of Los Angeles and certain points in the County of San Diego, and the John Wayne (SNA) Airport; and to make changes in existing rates for Orange County; and to establish a Zone of Rate Freedom.

Application 13-07-009
(Filed July 16, 2013)

D E C I S I O N G R A N T I N G A P P L I C A T I O N**Summary**

This decision grants the application of Hosein Nematbakhsh, doing business as ABC Shuttle, an individual, pursuant to Pub. Util. Code § 1031 et seq., to expand its Certificate of Public Convenience and Necessity to operate as a Passenger Stage Corporation, as defined in Pub. Util. Code § 226, and to establish a new Zone of Rate Freedom, pursuant to Pub. Util. Code § 454.2.

Discussion

Hosein Nematbakhsh doing business as ABC Shuttle (Applicant) provides an on-call Passenger Stage Corporation (PSC) service under a certificate granted by Decision (D.) 03-05-020. The certificate authorizes the transportation of passengers and their baggage between points in Orange County and John Wayne Airport (SNA). The application requests authority to expand the on-call PSC authority to include certain points in the County of San Bernardino, County of Riverside, portions of the County of Los Angeles and certain points in the

County of San Diego to SNA. The application also proposed increased fares for Orange County, and new fares for the expanded service.

Applicant states the addition of several new terminals and domestic airlines to SNA is increasing demand for on-call PSC service to points beyond its currently authorized service territory. Applicant states the expanded service of the shared ride to the airport will result in a benefit to the environment and lead to a reduction of private vehicles on the road. Applicant states it has the experience and ability to conduct the expanded PSC service. Applicant indicates he has provided on-call service for ten years. Attached to the application as Exhibit C is Applicant's unaudited balance sheet as of March 15, 2013, which discloses assets of \$168,500, liabilities of \$9,800, and net worth of \$158,700.

The proposed fares for the expanded service, listed in Exhibit A of the application, range between \$25 (Santa Ana and Orange County) and \$240 (Twenty-nine Palms and San Bernardino County). In D.03-05-020, a Zone of Rate Freedom (ZORF) was not authorized because Applicant did not request a ZORF. Applicant now proposes a ZORF in order to regain a competitive position with the many service operators in his territory. The requested ZORF will give the Applicant flexibility to adjust his fares in the future to respond to changes in operating costs, passenger counts, and other factors affecting revenues and expenses. Applicant seeks to establish a ZORF of \$5 below the medium fare and \$5 above the medium fare. The minimum fare will be \$20. Applicant will compete with other PSCs, taxicabs, charter sedans and limousines, public transit, and private automobiles in their operations. This highly competitive environment should result in Applicant pricing their services at a reasonable level.

Notice of filing of the application appeared in the Commission's Daily Calendar on July 18, 2013. Applicant served a notice of the application to the affected airports, cities, and counties, and Transit authorities.

In Resolution ALJ 176-3318 dated July 25, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3318.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Safety Considerations

In order to be authorized to commence operations as a PSC, the Applicant must comply with the following requirements in order to protect public safety: Proof of insurance pursuant to General Order Series 101, compliance with the controlled substance and alcohol testing program pursuant to Pub. Util. Code §1032.1 and General Order Series 158, and enrollment in the pull notice system as required by Section 1808.1 of the Vehicle Code.

Assignment of Proceeding

Emory J. Hagan, III is the assigned Examiner in this proceeding.

Findings of Fact

1. Applicant operates as an on-call PSC pursuant to D.03-05-020 between certain portions of Orange County and SNA.

2. The application requests authority to expand Applicant's PSC certificate to include service between certain points in the County of San Bernardino, County of Riverside, portions of the County of Los Angeles and certain points in the County of San Diego, and SNA.

3. D.03-05-020 did not authorize the Applicant to establish a ZORF.

4. Applicant requests to establish a ZORF of \$5 above the medium fare and \$5 below the medium fare for any route. The minimum fare will be \$20.

5. Applicant will compete with other PSCs, taxicabs, charter sedans and limousines, public transit, and private automobiles in their operations.

6. Applicant served a notice of the application to the affected airports, cities, counties, and Transit authorities.

7. No protest to the application has been filed.

8. A public hearing is not necessary.

9. A California Environmental Quality Act review is not required for this decision because it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.

2. The request for a ZORF should be granted because the ZORF is fair and reasonable.

3. Before Applicant changes any fares under the authorized ZORF, Applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.

4. Because the matter is uncontested, the decision should be effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. The Certificate of Public Convenience and Necessity granted to Hosein Nematbakhsh, dba ABC Shuttle, an individual authorizing him to operate as a Passenger Stage Corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-16112 of Decision 03-05-020, is revised by replacing Original Page 3 with First Revised Page 3, subject to the conditions contained in the following paragraphs.

2. Hosein Nematbakhsh dba ABC Shuttle shall:

- a. File a written acceptance of the revised certificate within 30 days after this decision is effective.
- b. Establish the authorized expanded service and file tariffs and timetables within 120 days after this decision is effective.
- c. File tariffs on or after the effective date of this decision. The tariff shall become effective ten days or more after the effective date of this decision, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so. Failure to

comply with this filing will result in suspension and/or revocation of authority.

- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Enroll all drivers in the Pull Notice System as required by Section 1808.1 of the Vehicle Code.

3. Hosein Nematbakhsh dba ABC Shuttle is authorized to establish a Zone of Rate Freedom for their current and expanded services of \$5 below the medium fare \$5 above the medium fare for any route. The minimum fare will be \$20.

4. Hosein Nematbakhsh dba ABC Shuttle shall file a Zone of Rate Freedom (ZORF) tariff with the Commission and the public in accordance with the application at least ten days before the effective date of the tariff. The ZORF shall expire unless exercised within 120 days after the effective date of this decision.

5. Hosein Nematbakhsh dba ABC Shuttle may make changes within the Zone of Rate Freedom by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

6. In addition to posting and filing tariffs, Hosein Nematbakhsh dba ABC Shuttle shall post notices explaining fare changes in their terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Hosein Nematbakhsh dba ABC Shuttle is authorized to begin operating the expanded service on the date that the Safety and Enforcement Division mails a notice to Applicant that their evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that

the California Highway Patrol has approved the use of Applicant's vehicles for service.

8. Before beginning service to John Wayne Airport (SNA), Hosein Nematbakhsh dba ABC Shuttle (Applicant), shall notify SNA's governing body. Applicant shall not operate into or on SNA property unless such operations are authorized by SNA's governing body.

9. The revised Certificate of Public Convenience and Necessity to operate as PSC-16112, granted herein, expires unless exercised within 120 days after the effective date of this decision.

10. The notice requirements of Rule 3.3(b) of the Commission's Rules of Practice and Procedure are waived as a notice of the application has been served upon parties that may have an interest in this proceeding

11. The Application is granted as set forth above.

12. This proceeding is closed.

This decision is effective today.

Dated _____, at San Francisco, California.

* SECTION II. SERVICE AREA.

- A. Points and places in Orange County, San Bernardino County, Riverside County, portions of Los Angeles County, and certain points in San Diego County.
- B. John Wayne Airport

SECTION III. ROUTE DESCRIPTIONS.

Commencing from any point described in Section IIA, then over the most convenient streets and highways to any airport described in Section IIB.